

## EN BANC

[ G.R. No. 147965, July 07, 2004 ]

### PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REY APATAY Y BALO, APPELLANT.

#### D E C I S I O N

##### PER CURIAM:

For automatic review is the Decision<sup>[1]</sup> dated March 5, 2001 of the Regional Trial Court, Branch 2, Tagbilaran City, in Criminal Case No. 10885 convicting Rey Apatay y Balo, appellant, of rape with homicide and sentencing him to suffer the supreme penalty of death. He was also ordered to indemnify the heirs of the victim, Catalina Baluran, the sum of ₱100,000.00.

The Information filed against appellant reads:

"The undersigned Assistant Provincial Prosecutor hereby accuses Rey Apatay y Balo of Upper Poblacion I, Sikatuna, Bohol of the crime of Rape with Homicide, committed as follows:

"That on or about the 20<sup>th</sup> day of October 2000 in the municipality of Sikatuna, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and with force, threat and intimidation, to wit: by entering the house where the victim Catalina Baluran was alone, and once inside put out the light thereof, then dragged the victim to a room and did then and there willfully, unlawfully and feloniously had carnal knowledge by inserting his penis into the victim's vagina without her consent and against her will, and thereafter, because the victim was able to identify him, did then and there willfully, unlawfully and feloniously attacked, assaulted, choked her neck and then struck the head and face with a firewood, thereby inflicting upon the vital parts of the victim's body mortal wounds or injuries which resulted directly to the immediate death of the said Catalina Baluran, to the damage and prejudice of the heirs of the victim.

"Acts committed contrary to the provisions of Art. 266-A & 266-B of the Revised Penal Code, as amended by R.A. 7659."<sup>[2]</sup>

During his arraignment, appellant was assisted by Atty. Adriano P. Damalerio of the Public Attorney's Office (PAO). After the Information was read and translated to him in his own *Visayan* dialect, he entered **a plea of guilty to the offense charged.**

Immediately, in conformity with the procedural rules, the trial judge asked appellant searching questions to determine whether his plea of guilty is voluntary and whether

he understands its consequences. In answer to the questions propounded by the trial judge, appellant declared that his plea is voluntary and that he fully comprehends its consequences.

The trial judge then directed the prosecution to present evidence to prove appellant's guilt and the degree of his culpability.

Francisca Buchan, Odelion Manco and Dr. Francisco D. Villaflor testified for the prosecution. Their testimonies show that in the early evening of October 20, 2000, 77-year old Catalina Baluran was alone in her house at Sitio Upper Poblacion I, Sikatuna, Bohol. Her niece, Caridad Baluran living with her, was rushed to the hospital by their neighbors, Francisca Buchan and Odelion Manco, due to an asthma attack. Before they left, they saw appellant Rey Apatay, their neighbor, standing near the door.<sup>[3]</sup>

The following morning, Francisca and Odelion learned from their neighbors that Catalina could not be found in her house. Alarmed, Francisca, together with some neighbors, went to Catalina's house. Once inside, they saw drops of blood and a piece of firewood on the floor. Immediately, they looked for her. Appellant helped in the search.<sup>[4]</sup>

On October 22, 2000, the lifeless body of Catalina was found inside the hole of an abandoned toilet. That same day, Dr. Francisco Romulo D. Villaflor, Medical Health Officer of Sikatuna, Bohol, conducted a *post-mortem* examination on her cadaver and issued a *Post Mortem* Report<sup>[5]</sup> showing the following injuries she sustained:

- "macerated (L) maxillary area  
Extending to zygoma  
(L) lateral priodital area.

- (+) hematoma/ecclymotes  
(R) maxillo-zygomatic area

- (+) hematoma area ecchymotes  
(L) supraclavicular area

- (+) Ecchymoses ant. neck

- (+) hamatoma (R) supraclavicular area

- (+) hematoma oterral area

- (+) Left first degree burn with  
sollae 6 cm ru greatest diameter

- (+) hematoma (L) iniquinal area

- (+) hematoma (R) iniquinal area  
extending to (R) ASIS

hymenal laceration at 6 degrees,

at 9 and 12 o'clock positions

multiple laceration and fracture largest  
laceration measuring 4 cm.

CAUSE OF DEATH: massive hemmorage  
due to multiple skull fracture."<sup>[6]</sup>

Dr. Villaflor testified, confirming the above Report. He stressed that Catalina had vaginal lacerations at "6, 9, and 12 o'clock positions," indicating that she was a victim of a forcible sexual assault; and that she died due to "massive hemorrhage secondary to multiple skull fracture."

On October 24, 2000, appellant, overwhelmed by his conscience, surrendered to the Sikatuna Police Station. During the investigation conducted by SPO4 Alfredo G. Luengas, appellant, assisted by his counsel, Atty. Adriano P. Damalerio of the PAO, executed a sworn statement<sup>[7]</sup> in the Visayan dialect, which was translated into English, wherein he acknowledged being advised by his counsel of his constitutional rights and voluntarily confessed that he raped and killed his neighbor, Catalina Baluran, in the evening of October 20, 2000. He stated therein that he killed Catalina because she recognized him as the culprit. He then choked her, struck her with a piece of firewood and thereafter threw her body into the hole of an abandoned toilet.

During the hearing, the trial judge asked appellant searching questions and he confirmed the details of his extra-judicial confession.

The defense then opted not to present any evidence in view of appellant's plea of guilty.<sup>[8]</sup>

On March 5, 2001, the trial court rendered a Decision, the dispositive portion of which states:

"WHEREFORE, in Criminal Case No. 10885, the Court finds accused Rey Apatay guilty beyond reasonable doubt of the crime of Rape with Homicide defined under Article 266-A and penalized under Article 266-B of the Revised Penal Code, and hereby sentences the said accused to suffer the supreme penalty of death, with the accessory penalties of the law, to indemnify the heirs of Catalina Baluran the sum of P100,000.00 and to pay the costs.

"SO ORDERED."

In assailing the Decision, appellant contends that (a) "the trial court failed to conduct a searching inquiry into the voluntariness and full comprehension by him of the consequences of his plea;" and (b) "the trial court failed to ask him whether he desires to present evidence in his behalf and allow him to do so if he desires."<sup>[9]</sup>

The Solicitor General, in his Appellee's Brief,<sup>[10]</sup> vehemently disputes appellant's contentions, asserting that the trial court did not commit any error in convicting appellant of the crime charged and in imposing upon him the death penalty.

The procedure for arraignment is provided in Section 1, Rule 116 of the Revised Rules of Criminal Procedure, as amended, quoted as follows:

"SEC. 1. *Arraignment and plea; how made.* –

(a) The accused must be arraigned before the court where the complaint or information was filed or assigned for trial. The arraignment shall be made in open court by the judge or clerk by furnishing the accused with a copy of the complaint or information, **reading the same in the language or dialect known to him, and asking him whether he pleads guilty or not guilty.** The prosecution may call at the trial witnesses other than those named in the complaint or information.

x x x." (Underscoring ours)

When an accused pleads guilty to a capital offense, Section 3 of the same Rule specifies the steps to be followed by the trial court, thus:

"SEC. 3. *Plea of guilty to capital offense; reception of evidence.* – When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf. (3a)"

In *People vs. Flaviano R. Segnar, Jr.*,<sup>[11]</sup> we ruled that there is no hard and fast rule as to how a judge may conduct a "searching inquiry," or as to the number and character of questions he may ask the accused, or as to the earnestness with which he may conduct it, since each case must be measured according to its individual merit.<sup>[12]</sup> The singular barometer is that the judge must, in all cases, fully convince himself that: (1) the accused, in pleading guilty, is doing so voluntarily – meaning, he was not coerced or threatened of physical harm, or placed under a state of duress; and (2) that he is truly guilty on the basis of his testimony. Thus, in determining whether an accused's plea of guilty to a capital offense is improvident, we held that considering their training, we leave to the judges ample discretion, but expect them at the same time that they will be true to their calling and be worthy ministers of the law and justice.<sup>[13]</sup>

Here, the above jurisprudential guidelines were faithfully complied with by the trial judge. Records show that during the arraignment, the Information was read to appellant in the *Visayan* dialect which he speaks and understands. After he entered a plea of guilty, the trial judge properly conducted a searching inquiry translated by the court interpreter into his *Visayan dialect*.

The proceedings during the arraignment, the trial judge's searching questions and appellant's answers thereto are reproduced hereunder:

"COURT:

Let the accused come forward.

RECORD:(Accused came forward for arraignment and listened to the reading of  
Information.)

COURT INTERPRETER:

(Read the Information to the accused.)

COURT TO THE COURT INTERPRETER:

Will you please ask the accused whether he understood the Information read and translated to him in the *Visayan* vernacular?

COURT INTERPRETER TO THE ACCUSED:

RECORD:

(COURT INTERPRETER Asking the accused in the *Visayan* vernacular if the latter understood the reading of the Information.)

ACCUSED TO THE COURT:

A: **Yes, Your Honor, I understand.**

COURT TO COURT INTERPRETER:

Will you ask him what is his plea, guilty or not guilty?

COURT INTERPRETER TO THE ACCUSED:

RECORD:

(COURT INTERPRETER asking the accused in the *Visayan* vernacular of the latter's plea.)

ACCUSED TO THE COURT:

A: **Guilty, Your Honor.**

COURT:

Enter a plea of guilty as expressed by the accused upon his arraignment today.

COURT:

Let the accused approach the bench.

COURT TO ACCUSED:

Q: **You have admitted the guilt for the offense charged?**

A: **Yes, your Honor.**

Q: **Is your plea of guilty voluntary?**

A: **Yes, your Honor.**

Q: **Nobody had forced you to make this plea of guilty?**

A: **None, Your Honor.**

COURT TO ACCUSED: